

Court File No.:

CV-13-1156 TJ-00

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

EKATERINA EVTROPOVA, Litigation Administrator of the Estate of
EVA RAVIKOVICH, deceased, EKATERINA EVTROPOVA, personally,
VYCHESLAV RAVIKOVICH, GALINA MECHTCHERIAKOVA
and LEONID YUZEFOVICH

Plaintiffs

- and -

OLENA PANFILOVA, OLEKSANDR RABADANOV, RUSLAN RABADANOV,
KATERINA RABADANOV, INNA KOGANOVA and VALERY KOGANOV

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiffs' lawyer or, where the Plaintiffs do not have a lawyer, serve it on the Plaintiffs, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFFS' CLAIM, and an amount to be determined for costs, within the time for serving and filing your Statement of Defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiffs' claim and \$400 for costs and have the costs assessed by the court.

Date August 7, 2013

Issued by _____


Local Registrar

Address of Court Office:

50 Eagle Street West
Newmarket, Ontario
L3Y 6B1

TO: **OLENA PANFILOVA**
343 Yellowwood Circle
Vaughan, Ontario
L4J 8L8

AND TO: **OLEKSANDR RABADANOV**
343 Yellowwood Circle
Vaughan, Ontario
L4J 8L8

AND TO: **RUSLAN RABADANOV**
343 Yellowwood Circle
Vaughan, Ontario
L4J 8L8

AND TO: **KATERINA RABADANOV**
343 Yellowwood Circle
Vaughan, Ontario
L4J 8L8

AND TO: INNA KOGANOVA
341 Yellowwood Circle
Vaughan, Ontario
L4J 8L8

AND TO: VALERY KOGANOV
341 Yellowwood Circle
Vaughan, Ontario
L4J 8L8

CLAIM

1. The Plaintiffs claim against the Defendants for the following:
 - (a) Special damages in the sum of \$500,000.00.
 - (b) General damages in the sum of \$1,000,000.00.
 - (c) Punitive, exemplary and aggravated damages in the sum of \$2,000,000.00.
 - (d) Pre-judgment interest pursuant to section 128 of the *Courts of Justice Act*, R.S.O. 1990, Chapter C.43.
 - (e) Post-judgment interest pursuant to section 129 of the *Courts of Justice Act*, R.S.O., 1990, Chapter C.43.
 - (f) Their costs of this action and Harmonized Sales Tax on costs.
 - (g) Such further and other relief as this Honourable Court deems just.

THE PARTIES

2. The Plaintiff, Ekaterina Evtropova, lives in the City of Toronto, in the Province of Ontario, and is the mother and Litigation Administrator of the Estate of Eva Ravikovich, deceased. At the time of her death on July 8, 2013, Eva was a two-year-old girl living in the City of Toronto, in the Province of Ontario. The Plaintiff, Ekaterina Evtropova, as the Litigation Administrator of the Estate of Eva Ravikovich, deceased, brings a claim pursuant to Section 38 of the *Trustee Act*, R.S.O. 1990, Chapter T.3.

3. The Plaintiffs, Ekaterina Evtropova, Vycheslav Ravikovich, Galina Mechtcheriakova and Leonid Yuzefovich, are Eva's parents and grandparents, and

bring their claims pursuant to Section 61 of the *Family Law Act*, R.S.O. 1990, Chapter F.3, as amended, as a result of Eva's death. Particulars of the relationship of these Plaintiffs to Eva, deceased, are as follows:

NAME	RELATIONSHIP	RESIDENCE	DATE OF BIRTH
Ekaterina Evtropova	Mother	Toronto, Ontario	May 15, 1987
Vycheslav Ravikovich	Father	Toronto, Ontario	October 25, 1983
Galina Mechtcheriakova	Grandmother	Toronto, Ontario	September 5, 1965
Leonid Yuzefovich	Grandfather	Toronto, Ontario	May 14, 1963

4. The Defendant, Olena Panfilova, lives in the City of Vaughan, in the Regional Municipality of York, and at all material times was an operator, occupier and owner of a home child care facility operating out of the properties municipally known as 343 Yellowwood Circle, Vaughan, Ontario, L4J 8L8 and 343 Yellowwood Circle, Vaughan, Ontario L4J 8L8 ("the daycare") and provided care or had responsibility for the care of Eva.

5. The Defendant, Oleksandr Rabadanov, lives in the City of Vaughan, in the Province of Ontario, and at all material times was the owner of the property municipally known as 343 Yellowwood Circle, Vaughan, Ontario L4J 8L8 and was an operator, occupier and owner of the daycare, and provided care or had responsibility for the care of Eva.

6. The Defendant, Ruslan Rabadanov, lives in the City of Vaughan, in the Regional Municipality of York, and at all material times was an operator, occupier and owner of the daycare, and provided care or had responsibility for the care of Eva.

7. The Defendant, Katerina Rabadanov, lives in the City of Vaughan, in the Province of Ontario, and at all material times was an operator, occupier and owner of the daycare, and provided care or had responsibility for the care of Eva.

8. The Defendants, Inna Koganova and Valery Koganov, live in the City of Vaughan, in the Province of Ontario, and at all material times were the owners of the property municipally known as 341 Yellowwood Circle, Vaughan, Ontario L4J 8L8 and at all material times were operators, occupiers and owners of the daycare, and provided care or had responsibility for the care of Eva.

THE INCIDENT

9. On Monday, July 8, 2013, Eva died while she was at the daycare.

ALLEGATIONS OF NEGLIGENCE

10. The Plaintiffs state that Eva's death was caused by the negligence, breach of fiduciary duties and breach of contract of the Defendants, the particulars of which are as follows:

A. AS TO THE NEGLIGENCE, BREACH OF FIDUCIARY DUTY AND BREACH OF CONTRACT OF THE DEFENDANTS, OLENA PANFILOVA, RUSLAN

**RABADANOV, KATERINA RABADANOV, OLEKSANDR RABADANOV, INNA
KOGANOVA AND VALERY KOGANOV:**

- a) They failed to provide adequate care to Eva.
- b) They failed to operate a licensed home child care facility.
- c) They provided child care in unsafe and unsanitary conditions.
- d) They provided child care when they were not adequately trained to do so.
- e) They exceeded the number of children allowed in a home child care facility.
- f) They failed to enforce and follow accepted child care practices.
- g) They neglected the children in the daycare, including Eva.
- h) They failed to maintain a safe building and accommodations.
- i) They failed to maintain safe equipment and furnishings.
- j) They failed to maintain adequate or any records with respect to the daycare in general, and Eva in particular.
- k) They failed to maintain proper staff to child ratios.
- l) They failed to ensure that food and drink was properly stored in order to prevent contamination, infection and illness.
- m) They failed to provide a clean, sanitary and safe environment.
- n) They failed to observe children for potential health issues and to respond as required.
- o) They failed to employ qualified staff.
- p) They failed to maintain a written program statement.
- q) They failed to ensure that they and their staff were adequately trained in

first aid and emergency procedures.

- r) They failed to properly supervise the children in the daycare.
- s) They failed to maintain a safe premises.
- t) They intentionally deceived and/or misled the Plaintiffs and other parents into believing that they were providing safe child care environment for their children in accordance with applicable standards.
- u) They created a false sense of security to parents of children in the daycare.
- v) They intentionally withheld information from the Plaintiffs, Ekaterina Evtropova and Vycheslav Ravikovich, with respect to the care and death of Eva.
- w) They failed to follow accepted daycare and/or child care practices.
- x) They did not use due, reasonable and proper skills in their care for Eva.
- y) They failed to respond in a reasonable and proper manner to an emergency situation.
- z) They failed to act reasonably in the circumstances.
- aa) They failed to ensure that there were proper protocols, policies and procedures in place in relation to caring for children.
- bb) They failed to follow their own protocols, policies and procedures in place in relation to caring for children.
- cc) Such further and other particulars as may become known through productions and disclosure.

DAMAGES ON BEHALF OF THE ESTATE OF EVA RAVIKOVICH

11. As a result of the negligence of the Defendants, Eva suffered serious injuries and died. Before Eva died she sustained pain and suffering, a loss of enjoyment of life and a loss of amenities from the time of the incident until her death.

NON-PECUNIARY GENERAL DAMAGES

12. As a result of the circumstances surrounding the incident, the incident itself, the immediate aftermath, and the resultant death of Eva, the Plaintiffs have suffered mental distress and psychological trauma.

LOSS OF GUIDANCE, CARE AND COMPANIONSHIP

13. As a further result of the negligence of the Defendants and the resulting death of Eva, the Plaintiffs have sustained a loss of guidance, care and companionship that they might reasonably have expected to receive from Eva if she had not been killed.

SPECIAL DAMAGES

14. As a result of the negligence of the Defendants, and the resultant death of Eva, the Plaintiffs have suffered pecuniary losses, including funeral and burial expenses, loss of income and other expenses, the particulars of which are not within the Plaintiffs' knowledge at this time.

NERVOUS SHOCK

15. As a further result of the negligence of the Defendants and the resultant death of Eva and its aftermath, the Plaintiff, Vycheslav Ravikovich, has suffered from nervous shock.

PUNITIVE DAMAGES

16. The Plaintiffs state that the Defendants behaved with arrogance, high-handedness and have shown a callous disregard and complete lack of care for Eva and her parents. The Defendants were or should have been conscious of the probable consequences of their actions and were indifferent, or worse to the danger of injury such actions would cause to other persons, including Eva. The Plaintiffs state that they are entitled to aggravated, punitive and exemplary damages from the Defendants. The Plaintiffs repeat and rely on the allegation set forth in paragraph 10.

APPLICABLE STATUTES

17. The Plaintiffs state that the Defendants are jointly and severally liable for the Plaintiffs' damages. The Plaintiffs further plead and rely upon the provisions of the *Negligence Act*, R.S.O. 1990, Chapter N.1, as amended and specifically, section 1 thereof, the *Family Law Act*, R.S.O. 1990 Chapter F.3 and specifically, section 61 thereof, the *Trustee Act*, R.S.O. 1990, c. T.23 and specifically, section 38(1), the *Occupiers' Liability Act*, R.S.O. 1990, c.O.2 and the *Day Nurseries Act*, R.S.O. 1990, Chapter D.2.

PLACE OF TRIAL

18. The Plaintiffs propose that this action be tried at the Town of Newmarket, in the City of York.

August 7, 2013

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Lawyers for the Plaintiffs

EVTROPOVA, et al.

Plaintiffs

- and -

PANFILOVA, et al.

Defendants

Court File No.

CN-13-115682-cc

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at NEWMARKET

STATEMENT OF CLAIM

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